IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5803 of 1985

For Approval and Signature:

HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

B S T LIMITED

Versus

UNION OF INDIA

Appearance:

1. Special Civil Application No. 5803 of 1985

MR NAVIN K PAHWA for Petitioner No. 1-3

MR SATYEN N THAKKAR for Respondent No. 1-3

CORAM : HON'BLE MR.JUSTICE M.S.SHAH
and
HON'BLE MR.JUSTICE D.A.MEHTA

Date of decision: 07/07/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE M.S.SHAH)

In this petition under Article 226 of the Constitution, the petitioner-firm has raised the dispute about classification of H.R. coils imported by the petitioners. The department was seeking to levy the customs duty thereon under Tariff Entry No.73.13 while the petitioners were contending that the commodity would fall under CTH No.73.08.

2. While admitting the petition, by interim order dated 5.12.1985, this Court directed the parties that goods be cleared on payment of duty in cash under C.T. 73.08, subject to the condition that the petitioner will furnish bank guarantee for the differential amount. The bank guarantee was to be furnished provisionally awaiting the result of the adjudication proceedings. This direction was to apply not only to the consignment which had arrived by the time the order was passed, but also to future consignments until adjudication proceedings are over in the present case. The parties were also given liberty to move this Court for appropriate relief after adjudication proceedings in this case are over.

3. When the matter is called out, neither the learned counsel for the petitioner nor Mr SN Thakkar learned Additional Standing Counsel for the Central Government was in a position to make any statement about conclusion of the adjudication proceedings, but considering the fact that the aforesaid order was passed way back on 5.12.1985, it is reasonable to proceed on the basis that the adjudication proceedings must have been concluded during pendency of the petition and the parties must have worked out their remedies/recoveries on the basis of the final orders passed in such adjudication proceedings.

4. In view of the above, this petition is disposed of as infructuous without expressing any opinion on the merits of the controversy which had in any case become the subject matter of the adjudication proceedings. Rule is accordingly discharged with no order as to costs. Interim relief granted earlier stands vacated.

Liberty to either party to apply in case of difficulty.

(M.S. SHAH, J.)

(D.A. MEHTA, J.)
zgs/-